

**FILED**  
**U.S. DISTRICT COURT**  
**EASTERN DISTRICT OF TEXAS**

2020年12月15日

DAVID J. MALAND, CLERK  
BY  
DEPUTY                     

CIVIL ACTION NO. 6:00-CV442-TJW

HON. T. JOHN WARD

V.

### Third-Party Defendants.

**TO THE HONORABLE JUDGE OF SAID COURT:**

Third-Party Defendant Liberty Mutual Insurance Company (“Liberty”) answers Third-Party Plaintiffs’ Original Petition as follows:

Defendant/Third-Party Plaintiffs' Original Petition fails to state a claim upon which relief may be granted, and therefore should be dismissed.

Defendant/Third-Party Plaintiffs’ state law claims are completely preempted by the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et. seq. (“ERISA”).

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### **III. THIRD DEFENSE**

Defendant/Third-Party Plaintiffs' claims are barred by the doctrine of accord and satisfaction.

### **IV. FOURTH DEFENSE**

Defendant/Third-Party Plaintiffs' claims have been satisfied.

### **V. FIFTH DEFENSE**

Defendant/Third-Party Plaintiffs' claims are subject to and/or barred by the terms of any relevant and applicable contracts or agreements.

### **VI. SIXTH DEFENSE**

Liberty responds to the specific allegations contained within Defendant/Third-Party Plaintiffs' Original Petition as follows:

1. Liberty admits that it is an insurance company doing business in the State of Texas, and that it has been served with process in this action. Liberty is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in Paragraph I, and therefore denies same.

2. Without admitting the substance of any such allegations, Liberty admits the allegation, contained within Paragraph II of Defendant/Third-Party Plaintiffs' Original Petition, that Plaintiffs' Original Petition filed herein makes many vague allegations, including the allegation that Defendants/Third-Party Plaintiffs mishandled plaintiff's patient account and the accounts of other persons similarly situated in the respects listed in subparagraphs A, B, C, and D of Paragraph II of the Original Third-Party Petition, that Plaintiff purports to seek to sue for himself and a class of persons, and that Defendants/Third-Party Plaintiffs have denied all of the Plaintiffs' substantive allegations.

3. Insofar as they relate to Liberty, Liberty admits the allegations contained within the first, second, and last sentences of Paragraph III of Defendant/Third-Party Plaintiffs' Original Petition. Liberty is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in Paragraph III, and therefore denies same.

4. Liberty denies the allegations contained within Paragraph IV of Defendant/Third-Party Plaintiffs' Original Petition.

5. Liberty is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph V of Defendant/Third-Party Plaintiffs' Original Petition, and therefore denies same.

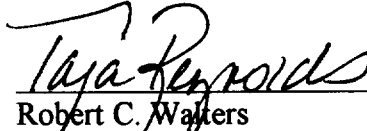
6. Liberty denies the allegations contained within Paragraph VI of Defendant/Third-Party Plaintiffs' Original Petition.

WHEREFORE, PREMISES CONSIDERED, Third-Party Defendant Liberty Mutual Insurance Company requests that this Court deny Defendant/Third-Party Plaintiffs all of the relief requested herein and that this Third-Party Defendant recover its reasonable and necessary attorneys' fees, expenses and costs of court expended in the defense of this action and any other relief to which it is entitled.

August 31, 2000

Respectfully submitted,

VINSON & ELKINS L.L.P.

A handwritten signature in cursive script, reading "Tara Reynolds", is written over a horizontal line.

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*Attorneys for Liberty Mutual Insurance Company*

### **CERTIFICATE OF SERVICE**

I hereby certify that, on the 31st day of August, 2000, I caused a true and correct copy of the foregoing to be served by first-class mail on all counsel identified on the attached service list.



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Tara H. Reynolds

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